



Natural Resources Conservation Service
P.O. Box 2890
Washington, D.C. 20013

APR 22 2010

SUBJECT: PGM – Wetland Reserve Program (WRP)
7-year Ownership Waiver Process

TO: State Conservationists
Directors, Pacific Islands and Caribbean Areas

File Code: 300-20-0

This letter provides updated guidance for the handling and processing of WRP 7-year ownership waiver requests. After reviewing and processing more than 400 waiver requests over the past several months, we have identified several changes that will streamline the process, improve consistency, and reduce delays for rendering a final determination by the Chief to approve or deny a landowner waiver request. The changes contained in this letter will be incorporated into the final WRP manual. Please follow the procedures outlined in this letter until superseded by additional guidance or final issuance of the WRP manual. A change has been made to the WRP business process that will allow the State to complete landowner and land eligibility in the order of their discretion so long as both have been addressed prior to execution of the "Agreement to Purchase a Conservation Easement" by NRCS.

The 2008 Farm Bill enacted statutory changes to the WRP legislation that now requires applicants to have owned the land for at least 7 years, prior to application, to be eligible to enroll land in a permanent or 30-year easement in WRP. NRCS may waive the 7-year ownership requirement if any of the following three criteria apply:

1. The land was acquired by will or succession as a result of the death of a previous landowner; or
2. The ownership change occurred due to foreclosure on the land and immediately before the foreclosure the owner of the land exercised a right of redemption from the mortgage holder in accordance with State law; or
3. The landowner provides adequate assurances that the land was not acquired for the purpose of placing it in WRP.

State Conservationists may waive the 7-year ownership requirement if documentation supports a finding that the land was acquired under circumstances contained in items 1 or 2 above. State Conservationists must report to the Regional Conservationist, on a quarterly basis, the number of waiver requests submitted and the determination made for each. Only the Chief may waive the 7-year ownership requirement if the basis for the waiver request meets conditions of item 3 above.

The following steps shall be taken when waiver requests are received for those applications where the landowner has not owned the land for at least 7-years prior to application and does not meet conditions contained under items 1 or 2 above:

1. NRCS State specialist completes landowner eligibility, including but not limited to length of ownership, Adjusted Gross Income, compliance with HEL/WC provisions, etc.
2. NRCS State specialist completes land eligibility and determines whether the offered acreage meets one or more land eligibility criteria contained in 514.14 of the Conservation Program Manual (WRP).
3. Only those applications that have been determined to meet all landowner eligibility criteria, except the 7-year ownership requirement, and appear to be an offer containing eligible land, should be considered for a 7-year waiver request (the offer does not have to be ranked at the time the waiver request is submitted).
4. If the applicant has not owned the land for the requisite time period, NRCS must notify the applicant that the application will be determined ineligible until such time that the applicant submits a waiver request with documentation that one of the three criteria for a waiver apply. The landowner shall be advised to submit to the State Conservationist, a letter and any other supporting documentation that provides reasonable assurance that the landowner did not purchase the land for the purpose of enrolling the land in WRP.
5. State Conservationists should complete the WRP 7-year Waiver Request Form (attached) through the State Conservationist signature block in lieu of a letter. The State Conservationist may not delegate the State Conservationist's authority. Pay special attention to entering statements under the "notes" section to document what circumstances were considered in rendering the State Conservationist's recommendation to approve or deny the waiver. Statements should be limited to circumstances pertinent to the landowners' assurances such as:
 - a. how the landowner came into possession of the land
 - b. reasons for offering the land into WRP
 - c. past and current land use and crop losses due to flooding
 - d. any personal or financial circumstances of the landowner at the time of application
 - e. any personal or financial circumstances that caused the previous owner to sell.
6. The completed form, along with the landowner letter, should be scanned and sent by email to the Easement Programs Division Director, with a copy to the National WRP Manager. Please do not send a hard copy; nor email a copy to the Chief.
7. The Chief shall make the final determination as to whether the assurances provided are adequate to support a finding that the landowner did not purchase the land for the purposes of enrolling in WRP, and whether a waiver request should be granted.

8. The Chief shall provide the determination to the State Conservationist, and the State Conservationist will notify the landowner of the determination and, if applicable, the landowner's rights to appeal.

Please direct any question you may have about this program change to Jessica Groves, National WRP Manager, (202) 720-1067, or Ken Murray, Easement Specialist, (202) 720-9482.

 ACTING FOR
ANTHONY J. KRAMER
Deputy Chief
Easements and Landscape Planning

Attachments

The following guidance is attached to this memorandum for your use as reference:

- WRP 7-year waiver request form (hard copy and electronic)
Note: The attached electronic file is a form created in Microsoft InfoPath. This software is part of the Microsoft Office package loaded on every USDA computer. Although staff may not be familiar with the software (used to create forms) you will discover the form is very easy to use (although difficult to edit if you are not the creator).
- Updated WRP business process flow chart.
- Example guidance that can be provided to landowners explaining the waiver request requirement for the landowner to provide adequate assurances.

cc:

Dave White, Chief, NRCS, Washington, D.C.
Ginger Murphy, Associate Chief, NRCS, Washington, D.C.
Leonard Jordan, Regional Conservationist, East, NRCS, Washington, D.C.
Thomas Christensen, Regional Conservationist, Central, NRCS, Washington, D.C.
Diane Gelburd, Regional Conservationist, West, NRCS, Washington, D.C.

WRP Land ownership requirement and 7-year Waiver requests

To: (Landowners who have applied for enrollment of land into the Wetland Reserve Program (WRP) but do not meet the 7 year ownership requirement for eligibility).

The 2008 Farm Bill enacted changes to the landowner eligibility requirement for offering land for enrollment into the WRP. For easement applications, you must have owned the offered land for at least seven (7) years prior to the time the land is determined eligible for enrollment.

However, a landowner can seek a waiver from the Chief of NRCS, for the ownership requirement. Specifically, if the landowner has owned the land for less than seven (7) years, and he/she can demonstrate the land was acquired under circumstances that give adequate assurances, as determined by NRCS, that such land was not acquired for the purposes of enrolling it in the program, a waiver may be granted.

- For the Waiver to be approved, the landowner must provide adequate assurances that the land was not acquired for the purpose of placing it in WRP. The burden of proof is on the landowner.
- You may also be considered for a waiver if you acquired the land by Will or succession due to the death of the prior landowner, or if you acquired the land by a right of redemption you may have exercised during a foreclosure action, if applicable.
- If you wish to be considered for a waiver, you must submit a letter to the State Conservationist explaining the circumstances and purposes for acquiring and using the land you wish to enroll, including recent and current land use.
- The letter should include the date of purchase, the reasons for purchasing the land, and why you now want to offer the land into WRP. Other disclosures may include:
 - the circumstances under which you came into possession of the land
 - past and current land use and crop losses due to flooding
 - any relevant personal or financial circumstances you have at the time of application
 - any relevant personal or financial circumstances that caused the previous owner to sell.
- You must meet all other landowner eligibility requirements and have on file with the Farm Services Agency:
 - A landowner profile established in the USDA Service Center SCIMS database
 - All (Everyone listed on the deed or entity members) landowners meet the Adjusted Gross Income (AGI) limitation of earning less than \$1 million of non-farm income to be eligible to receive conservation payments (Form CCC-926)
 - Highly Erodible Land/Wetland Compliance certification on file (Form AD-1026).
- Your letter should be addressed to[NAME, State Conservationist, 771 Corporate Drive Suite 210, Timbuctwo, XY 55555] and provided to your local District Conservationist or WRP Team Leader before your application can be considered for funding.
- We will notify you of the NRCS decision on your waiver request as soon as possible. If you have any questions, please contact: [State Program Manager]

Request #: _____

Date Recieved at NHQ: _____

WETLANDS RESERVE PROGRAM 7-YEAR OWNERSHIP WAIVER REQUEST

State:

County:

Landowner(s):

Landowner Request Date:

Date Deed Acquired:

Total tract Acres: Total Offered Acres: Total cropland acre offered:

Description of Circumstances:

Recommendations:

State Conservationist: I recommend approval of this Waiver Request ☐ YES ☐ NO

Landowner(s) meet all other eligibility requirements: ☐ YES ☐ NO

Offered acreage has been determined to be eligible: ☐ YES ☐ NO

Signature: _____ **Date:** _____

Director, Easements Program Division: ☐ Approve ☐ Deny

Signature: _____ **Date:** _____

Deputy Chief for Easements and Landscape Planning: ☐ Approve ☐ Deny

Signature: _____ **Date:** _____

Chief Decision:

☐ I approve this waiver request

☐ I Deny this waiver request

Dave White, Chief

Date

Easement Acquisition Business Process Flow Chart

